Illinois Department of Revenue

## INFORMATIONAL BULLETIN

April 1991

## + SALES TAX ISSUES FOR AUCTIONEERS

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|TO:|AUCTION COMPANY +---+OWNERS AND AUCTIONEERS

This bulletin's purpose is to clarify under what conditions sales tax (Retailers' Occupation Tax) is due on goods sold at auction.

IF I DO NOT OWE SALES TAX, HOW CAN I MAKE SURE I DO NOT INCUR A TAX LIABILITY?

If you are to avoid sales tax liability for items sold, you must disclose to the purchasers the names and cities of all principals (the owners of the goods you are selling at auction). A verbal a announcement of the principals' names at the auction is not sufficient to document disclosure. Documentation of this disclosure must be available in the event you are audited.

The more you document disclosure, the better. Acceptable evidence of disclosure includes

- naming the principals and their cities in newspaper and other public advertising;
- posting a written list of principals' names and cities at

- other methods which provide a permanent, written record of the names and cities of the principals.

Each of the above methods is sufficient proof of disclosure.

WHY IS DISCLOSURE TO PROSPECTIVE BUYERS NECESSARY?

Unless you disclose the name and city of the principal who owns each item auctioned, you are presumed to be a retailer, and you are liable for collecting, reporting, and paying sales tax (Retailers' Occupation Tax) to us for that item.

WHAT RECORDS MUST I KEEP?

You must document in your books and records the ownership of each item, making clear which principal owned each item sold regardless of whether you disclose the principal for that item to the purchaser.

UNDER WHAT CONDITIONS IS SALES TAX DUE ON RETAIL INVENTORY?

The auctioneer is liable for sales tax on disclosed. any item auctioned whose principal was not If the principal was

- sales tax is not due on the auctioning of capital assets which the principal does not normally sell-- such as fixtures and furniture.

UNDER WHAT CONDITIONS IS SALES TAX DUE ON ESTATE, HOUSEHOLD, AND OCCASIONAL SALES?

The auctioneer is liable for sales tax on any item auctioned whose principal was not disclosed.

If the principal was disclosed, sales tax is not due on the auctioning of any item owned by that principal as long as the principal does not normally sell the item at retail.

In auctions in which some principals are disclosed and some are undisclosed, the auctioneer is liable for sales tax on any item whose principal was undisclosed.

UNDER WHAT CONDITIONS IS SALES TAX DUE ON CONSIGNMENTS?

The auctioneer is liable for sales tax on any item auctioned whose principal was not

- the auction site;
- distributing sale bills or brochures which name the principals and their cities;
- recording principals'
  names and cities on
  legal documents such
  as automobile titles;
  or

disclosed.

If the principal was disclosed and the principal was a retailer,

- sales tax is due from the principal on items in the principal's retail inventory; but disclosed,

- sales tax is due from the principal on consignments of retail inventory; but
- sales tax is not due on consignments of nonretail inventory.

## Page 2

UNDER WHAT CONDITIONS IS SALES TAX DUE ON MOTOR VEHICLES?

On the auctioning of motor vehicles be an auctioneer who is licensed to sell motor vehicles...

Sales tax is due when

- vehicles consigned from dealers and bank repossessions are auctioned to the public (the dealers and banks must file Form ST-556 returns).

No sales tax is due when

- vehicles consigned
   from dealers are
   auctioned only to
   other dealers (the
   purchasing dealer
   must provide resale
   certificates, and the
   selling dealer must
   file Form ST-556
   returns); or
- vehicles consigned from individuals and businesses (not dealers) and whose titles are in the individual sellers' names are auctioned (the owner is disclosed to the purchaser on the title at the time of sale; the PURCHASER

IS SALES TAX DUE IF I DONATE MY SERVICES FOR A COMMUNITY OR CHARITY AUCTION?

The auctioneer is liable for sales tax on any item auctioned whose principal is not disclosed, even if the proceeds are donated to charitable or community organizations.

If the organizations sponsoring the auction holds legal title to any items sold, the auctioneer may avoid sales liability by documenting disclosure of the titleholder of those items (in this case, the sponsor).

If an individual or organization other than the organization sponsoring the auction holds title to any items sold, the auctioneer must document disclosure of the titleholder of each item in order to avoid sales tax liability for that item.

IS SALES TAX DUE ON THE PROPERTY OR INVENTORY OF AUCTIONEERS?

Auctioneers who sell their own property or inventory at auction If tax-exempt items, such as farm machinery, are sold, you must obtain a certificate of exemption.

If a purchaser claims that a purchase is made for resale, you must obtain a resale certificate with the purchaser's registration number.

HOW DOES AN AUCTIONEER SEND SALES TAX TO THE DEPARTMENT?

Any auctioneer who incurs an Illinois sales tax liability must register with us by completing and sending us Form NUC-1, Illinois Business Registration, and filing Form ST-1, Sales and Use Tax Return. For a registration kit and further information, please call us.

## QUESTIONS?

If you wish to refer to the rules governing auctions, see the 86 Illinois Administrative Code, Chapter 1, Section 130.1915.

The requirements for resale certificates are outlined in the 86 Illinois Administrative

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vehicle is registered. tax.

IS SALES TAX DUE ON REAL ESTATE?

No sales tax is due on the auctioning of real estate. However, if If items are sold to a tangible personal buyer who is exempt property is sold along from paying tax, you

may be required to are considered by us to pay VEHICLE USE TAX be retailers, and such at the time the sales are subject to

> WHAT DO I DO WHEN AS PURCHASER DOES NOT OWE CIRCUMSTANCES?

with real estate, must make sure that the personal property may buyer provides a proper be subject to sales tax. certificate of exemption.

Code, Chapter 1, Section 130.1410.

If you have questions or need more information, please call or write us. Our telephone numbers TAX BECAUSE OF SPECIAL are listed at the bottom of this bulletin.

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FOR CALL: 1 800 732-8866 or 1 217 782-3336 INFORMATION

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